

Valletta Convention

Future implications

The European Convention on the Protection of the Archaeological Heritage (revised), commonly known as the Valletta Convention, was ratified by the UK government in September 2000, and came into effect six months later, in March 2001. Since then there has been great concern in some quarters about the effect the Convention will have on the use of metal detectors and on the control of archaeological excavations. These concerns are in fact misplaced since the relevant sub-clauses have been adopted with little alteration from the earlier (1969) London Convention which the UK ratified in 1972.

Before dealing with those particular points, it is worth looking more widely at the nature, purpose and content of the Valletta Convention.

What is the Valletta Convention?

The Valletta Convention is one of a series of Conventions for the protection of the cultural heritage produced by the Council of Europe over the last fifty years. All derive their authority from the 1954 European Cultural Convention which established the competency of the Council of Europe in this area. Others include the original Convention on the Protection of the Archaeological Heritage (London, 1969) and the Convention for the Protection of the Architectural Heritage of Europe (Granada, 1985). These Conventions are treaties open to all members of the Council of Europe and to non-member European countries such as the Holy See.

The Council of Europe (not to be confused with the European Union) currently has 43 member states extending from Iceland to Azerbaijan, and Portugal to Russia. Its members therefore have very different systems of protecting cultural heritage, as well as extremely diverse administrative and legal structures. It is for each country to decide how the terms of one of the Conventions should be implemented within the context of its own domestic system.

What does the Valletta Convention say?

As its full title suggests, the Valletta Convention is an update of the 1969 London Convention. In

many cases, wording has been taken directly from the earlier Convention, while in others it has been updated to some extent but without changing the essential meaning of the earlier treaty. The UK ratified the London Convention in 1972 which means that it was in force here for nearly 30 years before being replaced this spring by the Valletta Convention.

By ratifying the Valletta Convention, the United Kingdom government has undertaken to maintain a legal system for the protection of the archaeological heritage fulfilling the conditions set by the Convention and to devise supervision and protection measures. States joining the Convention also agree to promote an integrated policy for the conservation of the archaeological heritage, to arrange for financial support for research, to facilitate the pooling of information, to promote public awareness and to intensify cooperation between the Parties. The Convention recognises the holistic nature of the historic environment and seeks to protect all aspects of it, while promoting increased understanding of the past. It covers archaeology on land and underwater.

The Convention defines the archaeological heritage very broadly (Article 1). It deals with inventorying and protection of sites and areas, mandatory reporting of chance finds (all in Article 2) and control of illicit trade in antiquities (Articles 10 and 11). It promotes high standards for all archaeological work which should be carried out by suitably qualified people (Article 3), and it recommends the creation of archaeological reserves, while requiring the conservation of excavated sites and the safe-keeping of finds (Article 4).

It follows closely current British practice (as set out in PPG15 and PPG16 in England) for the protection and recording of archaeology during development (Article 5) and contains provisions for the funding for development-led archaeology (again following closely current British practice) and for research (Article 6). Articles 7 and 8 cover the collection and dissemination of information while Article 9 is about the promotion of public awareness and access.

The Valletta Convention has raised some concern about the implications for the use of metal detectors and control of archaeological excavations, but the relevant clauses differ little from the earlier London Convention

Article 12 deals with mutual technical and scientific assistance internationally.

The Convention is supported by Explanatory Notes which need to be read in conjunction with the treaty itself. Both can be found on the Council of Europe website, www.coe.int.

Table One, shown below, compares the areas covered by the Valletta and London Conventions. From this it is clear that the main new area was coverage of the treatment of archaeology within the development process and the funding both of research archaeology (said to be a government responsibility) and of rescue archaeology (said to be the developer's responsibility). Also significant is the introduction of Article 4, which deals with the physical conservation of the archaeological heritage.

Overall, the Valletta Convention is a wide-ranging statement of the best international archaeological standards. In legal terms, the UK already meets its provisions in general though there is scope for it to be used to raise standards in our treatment of the archaeological heritage.

Perceived areas of concern

Since the Convention came into force, there have been concerns over two areas of its provision. It has been argued that it could seriously affect the activities both of metal detectorists and of amateur archaeologists through the introduction of a licensing system. In both cases, these concerns seem to be unfounded.

Metal detecting

The Convention requires (Article 2 iii) the mandatory reporting of chance finds and making

them available for examination. The Explanatory Notes, however, make it clear that a state party can restrict this to finds of precious materials. The government's view is that this requirement is already covered in England and Wales by the 1996 Treasure Act, which has in practice been supplemented by the very successful voluntary portable antiquities reporting scheme. Scotland and Northern Ireland already have more comprehensive legislation in this area.

Article 3 iii requires the use of metal detectors and any other detection equipment or process for archaeological investigation to be subjected to specific prior authorisation. Licensing of use of metal detectors is already a requirement for prospection on scheduled ancient monuments. Beyond that, the government does not believe that further legislation is needed since clause 3 iii applies only to archaeological investigation and not to general use of detectors.

The role of amateur archaeology

Concerns have been expressed by the Council for Independent Archaeology and in *Current Archaeology* (174, 241-3; www.archaeology.co.uk, www.sosarchaeology.com) that the introduction of Article 3 means the introduction of a licensing system and the end of the role of the amateur in field work. It is instructive to compare the wording of this Article in the London Convention (in force in the UK since 1972) with that now included in the Valletta Convention.

While Clause 3 has been expanded in the Valletta Convention, the principle provisions on the control of excavation have actually changed very little from those in the London Convention to which the UK was party for nearly 30 years

TABLE ONE:
Comparison of Valletta and
London Conventions

Content	London (1969)	Valletta (1992)
Definition of archaeological heritage	Art. 1	Art. 1
Identification and designation	Art. 2	Art. 2
Control of archaeological work	Art. 3	Art. 3
Physical protection of archaeological heritage		Art. 4
Integration of archaeology in development planning		Art. 5
Funding of archaeological work (public and private)		Art. 6
Collection and dissemination of information	Art. 4	Art. 7
National and international exchange of information	Art. 5 a, b	Art. 8
Promotion of public awareness	Art. 5d	Art. 9
Prevention of illicit circulation of elements of the archaeological heritage	Art. 5c, 6, 7	Art. 10, 11
Mutual technical and scientific assistance		Art. 12

without any adverse affect on the activities of amateur archaeologists. The recently expressed concerns about the introduction of a licensing scheme are therefore misplaced. The government has now said (in a written reply to a parliamentary question) that

...The Government does not believe that additional legislation, requiring a licensing system, is necessary to fulfil Article 3. Much archaeological work is already controlled through existing mechanisms. There may be scope for developing a voluntary Code of

Conduct for those who wish to undertake archaeological work outside the existing systems of control.

English Heritage believes that the voluntary sector is one of the strengths and distinguishing characteristics of British archaeology, which should be fostered and developed. Rather than restricting the contribution of the voluntary sector, there is a need to increase its involvement and to support improvement of standards through means such as training.

London Convention (1969)	Valletta Convention (1992)
<p>Article 3</p> <p>To give full scientific significance to archaeological excavations in the sites, areas and zones designated in accordance with Article 2 of this Convention, each Contracting Party undertakes, as far as possible, to:</p>	<p>Article 3</p> <p>To preserve the archaeological heritage and guarantee the scientific significance of archaeological research work, each Party undertakes:</p>
<p>A) prohibit and restrain illicit excavations;</p>	<p>i) to apply procedures for the authorisation and supervision of excavation and other archaeological activities in such a way as:</p> <ul style="list-style-type: none"> a. to prevent any illicit excavation or removal of elements of the archaeological heritage; b. to ensure that archaeological excavations and prospecting are undertaken in a scientific manner and provided that: <ul style="list-style-type: none"> • non-destructive methods of investigation are applied wherever possible; • the elements of the archaeological heritage are not uncovered or left exposed during or after excavation without provision being made for their proper preservation, conservation and management;
<p>B) take the necessary measures to ensure that excavations are, by special authorisation, entrusted only to qualified persons;</p>	<p>ii) to ensure that excavations and other potentially destructive techniques are carried out only by qualified, specially authorised persons;</p>
<p>C) ensure the control and conservation of the results obtained</p>	<p>iii) to subject to specific prior authorisation, whenever foreseen by the domestic law of the State, the use of metal detectors and any other detection equipment or process for archaeological investigation</p>

We therefore see no need for a licensing system but we do believe that there is scope to use Article 3 to improve the standards of work carried out under Scheduled Monument Consent on scheduled sites or as a result of the operation of PPG16 in work related to development control. There may also be scope to develop consistent application of standards by those bodies that commission or fund archaeological work. Outside these areas, we believe that a voluntary Code of Conduct, developed with the archaeological world as a whole, would help to ensure that all archaeological work is carried out to the highest possible standards.

We believe that all responsible archaeologists would support such a move to improve the quality of archaeological work in this country. We will seek to work towards this objective with the voluntary sector, the Council for British Archaeology, the Institute of Field Archaeologists and other involved organisations.

Conclusion

The Valletta Convention is a wide-ranging statement setting out high international standards for archaeological work and conservation. It is for each country to apply the Convention within its own legal system. Despite recent concerns, the Convention does not require radical changes to the way in which archaeological sites are protected in this country. It does provide scope for review of the ways in which current legislation and planning guidance might be used to improve standards overall; this should be done on the basis of wide consultation. There is also scope for the development of a Code of Conduct to which all those undertaking archaeological work could be invited to subscribe. More generally, the Convention provides an excellent vehicle to raise awareness of the significance of our archaeological heritage and the need to protect and fund it adequately. If it is to be effective, though, all parts of the archaeological community will need to use the Convention to aid their work. □

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Volunteers excavating 2nd and 3rd century Roman buildings at Bainesse, near Catterick, in 1981



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